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PATENT

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Date 1/27/2009 Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

HURST et al.

Serial No.: 10/566,410

Filing Date: May 29, 2007

Confirmation No.: 5534

Group Art Unit: 1642

Examiner: Davis, M.T.B.

Title: METHODS OF THERAPY FOR CHRONIC LYMPHOCYTIC LEUKEMIA

RESPONSE TO REQUIREMENT FOR RESTRICTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Restriction Requirement dated October 29, 2008, for which a response was initially due November 29, 2008. Accordingly, a two-month extension of time in which to respond is requested and the requisite fee accompanies this response.

The Examiner required election of one of the following groups of claims:

Group I. Claims 1, 2, 4-9, 11-20, 22-25 and 33-35, drawn to an anti-CD52 antibody and interleukin-2 and a method for treating chronic lymphocytic leukemia with the antibody and an interleukin-2 composition;

Group II. Claims 1-15, drawn to a method of treating chronic lymphocytic leukemia using an anti-CD52 antibody and a variant of interleukin-2; and

Group III. Claims 16-21 and 33-39, drawn to an anti-CD52 antibody and a variant of interleukin-2.

Applicants elect to proceed with Group II, claims 1-15, with traverse. Applicants expressly reserve their right under 35 USC §121 to file one or more divisional applications directed to the nonelected subject matter during the pendency of this application.

Applicants traverse the restriction requirement as follows. As noted by the Examiner, the present application is a national phase filing of PCT/US2004/017921 filed under 35 U.S.C. 371. Accordingly, questions of unity must be resolved using the criteria of Rule 13 of the Patent Cooperation Treaty (PCT). As the Examiner has pointed out and as explained in 37 CFR 1.475(b)(2), when claims to different categories are present in the application, such as a product and a process of use of said product, the claims will be considered to have unity of invention.

Here, the claims of Group II, directed to a method of treating chronic lymphocytic leukemia using an anti-CD52 antibody and a variant of interleukin-2, and the claims of Group III, drawn to an anti-CD52 antibody and a variant of interleukin-2, should be examined together since they are directed to a product and a process of use of that product.

Accordingly, Applicants submit that the claims of Group II and Group III exhibit unity of invention within the meaning of Rule 13 of the PCT. Examination of at least the claims of Groups II and III together is therefore appropriate.

Please direct all further communications in this application to:

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Respectfully submitted,

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